

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CP III RINCON TOWERS, LLC, :
Plaintiff, :
: 10-CV-4638 (JMF) (OTW)
-v- :
RICHARD D. COHEN, :
Defendant. :
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JESSE M. FURMAN, United States District Judge:

This case has been reassigned to the undersigned. Unless and until the Court orders otherwise, all prior orders, dates, and deadlines shall remain in effect notwithstanding the case's reassignment, except that any currently scheduled conference or oral argument before the Court is adjourned pending further order of the Court. **All counsel must familiarize themselves with the Court's Individual Rules, which are available at <https://nysd.uscourts.gov/hon-jesse-m-furman>.**

The Court notes that this case has already been referred to Magistrate Judge Wang for a Report & Recommendation on the pending motion at ECF No. 131. *See* ECF No. 141. Mindful of the fact that Magistrate Judge Wang is more familiar with both the motion and the lengthy procedural history of this case and that she recently held a status conference at which the parties provided oral argument on the pending motion, *see* ECF No. 146, the Court encourages the parties to consider consenting to proceed before Magistrate Judge Wang for all purposes.

If both parties consent to proceed before the Magistrate Judge, counsel for Defendant shall by **March 2, 2020**, mail or email to Furman_NYSDChambers@nysd.uscourts.gov a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, a copy of which is attached to this Order (and also available at <https://nysd.uscourts.gov/forms>). If the Court approves that form, all further proceedings will then be conducted before Magistrate Judge Wang rather than before the undersigned.

If either party does not consent to conducting all further proceedings before Magistrate Judge Wang, the parties shall file a joint letter by **March 2, 2020**, advising the Court that the parties do not consent, **but shall not disclose the identity of the party or parties who do not consent**. There will be no adverse consequences if the parties do not consent to proceed before Magistrate Judge Wang.

Furthermore, if the parties do not consent to conduct all further proceedings before Magistrate Judge Wang, the parties shall file a joint letter on ECF by **March 9, 2020**, described below, updating the Court on the status of the case. The joint letter shall not exceed five (5) pages, and shall provide the following information in separate paragraphs:

1. Names of counsel and current contact information, if different from the information

currently reflected on the docket;

2. A brief statement of the nature of the case and/or the principal defenses thereto;
3. A brief explanation of why jurisdiction and venue lie in this Court. In any action in which subject matter jurisdiction is founded on diversity of citizenship pursuant to Title 28, United States Code, Section 1332, the letter must explain the basis for the parties' belief that diversity of citizenship exists. Where any party is a corporation, the letter shall state both the place of incorporation and the principal place of business. In cases where any party is a partnership, limited partnership, limited liability company, or trust, the letter shall state the citizenship of each of the entity's members, shareholders, partners, and/or trustees. *See, e.g., Handelsman v. Bedford Vill. Assocs. L.P.*, 213 F.3d 48 (2d Cir. 2000).
4. A statement of all existing deadlines, due dates, and/or cut-off dates;
5. A statement of any previously scheduled conference dates with the Court that have not yet occurred and the matters that were to be discussed;
6. A brief description of any outstanding motions, including the date of the motion and the nature of the relief sought;
7. A statement and description of any pending appeals;
8. A detailed statement of all discovery undertaken to date, including how many depositions each party has taken and what, if any, discovery remains that is essential for the parties to engage in meaningful settlement negotiations;
9. A list of all prior settlement discussions, including the date, the parties involved, and the approximate duration of such discussions, if any;
10. A statement of whether the parties have discussed the use of alternate dispute resolution mechanisms and indicating whether the parties believe that (a) a settlement conference before a Magistrate Judge; (b) participation in the District's Mediation Program; and/or (c) retention of a privately retained mediator would be appropriate and, if so, when in the case (*e.g.*, within the next sixty days; after the deposition of plaintiff is completed; after the close of fact discovery; etc.) the use of such a mechanism would be appropriate;
11. An estimate of the length of trial; and
12. Any other information that the parties believe may assist the Court in advancing the case to settlement or trial, including, but not limited to, a description of any dispositive issue or novel issue raised by the case.

If this case has been settled or otherwise terminated, counsel are not required to submit such letter or to appear, provided that a stipulation of discontinuance, voluntary dismissal, or other proof of termination is filed on the docket prior to the deadline, using the appropriate ECF Filing Event. *See*

SDNY ECF Rules & Instructions §§ 13.17-13.19 & App'x A, available at <https://nysd.uscourts.gov/electronic-case-filing>. In accordance with the Court's Individual Rules and Practices, requests for extensions or adjournment may be made only by letter-motion filed on ECF and must be received at least 48 hours before the deadline or conference. The written submission must state (1) the original date(s); (2) the number of previous requests for adjournment or extension; (3) whether these previous requests were granted or denied; (4) whether the adversary consents and, if not, the reasons given by the adversary for refusing to consent; and (5) the date of the parties' next scheduled appearance before the Court. Unless counsel are notified that a conference has been adjourned, it will be held as scheduled.

SO ORDERED.

Dated: February 24, 2020
New York, New York



JESSE M. FURMAN
United States District Judge

UNITED STATES DISTRICT COURT
for the

Plaintiff)
v.) Civil Action No.
Defendant)

NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

Printed names of parties and attorneys

Signatures of parties or attorneys

Dates

Reference Order

IT IS ORDERED: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date:

District Judge's signature

Printed name and title

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.

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